

IN THE
UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS
EAST ST. LOUIS DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
vs.)	
)	
FUNDS IN THE AMOUNT OF)	
FIVE HUNDRED TEN THOUSAND)	
NINE HUNDRED TEN DOLLARS)	No.18-cv-1683-NJR-SCW
(\$510,910.00) in U.S. CURRENCY, and)	
ONE FORD FOREST RIVER FORESTER)	
RECREATIONAL VEHICLE, BEARING)	
VIN: 1FDWS9PM1GKA97463, WITH)	
ALL ACCESSORIES, ATTACHMENTS,)	
AND COMPONENTS THEREON, et al.)	
Defendants.)	
)	
<hr/>)	
PATRICK N. BARBER and STEPHEN M. KOMIE)	
Claimants.)	

JOINT MOTION FOR RECLASSIFICATION OF THE CASE TRACK

NOW COME the Claimants, Patrick N. Barber and Stephen M. Komie, by and through attorney Stephen M. Komie of Komie and Associates pursuant to 28 U.S.C. sec. 473(a)(2)(B) and Local Rules 16.1 and 16.2 and moves this Honorable Court for reclassification of the track assignment. In support thereof states as follows:

1. That on September 4, 2018, the Plaintiff United States of America filed with the court its Complaint sounding in civil forfeiture.
2. That subsequently thereto the United States filed a Motion for Leave to File an Amended Complaint which the court granted. The Amended Complaint is due on or before October 17, 2018. At this time the Magistrate has not set a schedule for the Claimants to answer or otherwise plead a Federal Rule of Civil Procedure 12 motion.
3. That currently pending before the Magistrate is a local rule scheduling report which the parties have agreed upon. However, the schedule the

parties need due to the complexity of the case does not fall within Track A.

4. That pursuant to 28 U.S.C. § 473(a)(2)(B)(i) the parties agree the demands of the case and its complexity make the setting of such a Track A trial date is incompatible with serving the ends of justice.
5. That this case pursuant to Local Rule 16.1 is an extremely complex forfeiture case involving questions of probable cause to stop a vehicle, depositions of a large number of law enforcement officers, the involvement of complex written discovery, and use of subpoenas duces tecum to obtain information from local police departments which are not employees of the federal government and not under the control of the plaintiff.
6. The parties both agree that due to the complexity of the case, the issues involved, and the need to conduct discovery in an orderly manner as the case develops the case is better suited for Track C. Therefore, this is a joint motion requesting the court to reclassify this case as a Track C case.
7. That attached hereto and made a part hereof is the proposed scheduling report being submitted to the Magistrate.
8. That the parties are requesting the Magistrate to delay the scheduling conference until this Court has had an opportunity to grant the parties' joint motion.
9. That the parties make this request in the interest of justice to accomplish an orderly progression of the case to trial as the trial cannot reasonably be held within such Track A time because of the complexity of the case.

10. That the parties have conferred telephonically and the Plaintiff's counsel has no objection in light of the proposed scheduling report and the time necessary to prepare the case for trial.

WHEREFORE, for the foregoing reasons, the parties pray for the Court to grant the Motion for Reclassification of the Case Track and reclassify this matter from Track A to Track C.

Respectfully submitted,
PATRICK N. BARBER,
by his attorneys
KOMIE AND ASSOCIATES

By: /s/ Stephen M. Komie
Stephen M. Komie
Komie and Associates
One N. LaSalle Street, #4200
Chicago, Illinois 60602
(312) 263-2800
Attorney No. 1505181

EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

UNITED STATES OF AMERICA,
Plaintiff,

vs

\$510,910.00 IN UNITED STATES
CURRENCY,
Defendant.

CIVIL NO. 18-1683-NJR-SCW

CJRA TRACK: A

**PRESUMPTIVE TRIAL MONTH:
JUNE 2019**

JUDGE: NANCY J. ROSENSTENGEL

**JOINT REPORT OF PARTIES
AND PROPOSED SCHEDULING AND DISCOVERY ORDER**

Pursuant to Federal Rule of Civil Procedure 26(f) and SDIL-LR 16.2(a), an initial conference of the parties was held on October 19, 2018 with attorneys Stephen Komie and Liam Coonan participating.

SCHEDULING AND DISCOVERY PLANS WERE DISCUSSED AND AGREED TO AS FOLLOWS:

1. The Court has granted the Plaintiff's Motion to Amend the Complaint to add defendants. The Amended Complaint is due October 17, 2018.
2. That the Claimants should be granted time to answer or otherwise plead to the Amended Complaint to November 16, 2018.
3. The parties agree that this case has been misapprehended as a Track A case when in fact it should be a Track C case due to the complexity of the issues, pendency of cases now on appeal which will lead to decisional law affecting the trial of the case, and the extensive discovery and depositions of multiple law enforcement officers which will occur once the pleadings are in order. Therefore, the parties request the Court to reclassify the case onto Track C.
4. That there is pending and undetermined a joint motion before the District Judge to reclassify the case track as a Track C case. Assuming the Court will grant the Joint Motion to Reclassify, we proposed the following schedule.
5. Initial interrogatories and requests to produce, pursuant to Federal Rules of Civil Procedure 33 and 34 shall be served on opposing parties by December 21, 2018.

6. Due to previously set trial schedules, Plaintiff's agents' depositions shall be taken by April 5, 2019.
7. Claimants' depositions shall be taken by June 28, 2019.
8. Motions to amend the pleadings, including the commencement of a third-party action, shall be filed by December 14, 2018 (which date shall be no later than **120 days** following the Scheduling and Discovery conference).
9. Expert witnesses shall be disclosed, along with a written report prepared and signed by the witness pursuant to Federal Rule of Civil Procedure 26(a)(2), as follows:
Plaintiff's expert(s): July 31, 2019.
Claimants' expert(s): August 30, 2019.
Third Party expert(s): August 30, 2019.
10. Depositions of expert witnesses must be taken by:
Plaintiff's expert(s): October 18, 2019.
Claimants' expert(s): November 22, 2019.
Third Party expert(s): November 22, 2019.
11. The parties **CERTIFY** that they have discussed, in particular, the proportionality of discovery, the burden and expense associated with discovery, and the discovery of electronically stored information (ESI). The parties ☐ do ☒ do not anticipate a need for an ESI protocol. The parties shall submit to the Court any joint proposed ESI protocol no later than [Click here to enter a date](#). (The protocol shall contain mechanisms for addressing necessary topics concerning ESI to include sources of information, search terms, format of production and preservation of ESI by both Plaintiff and Claimants).
12. **Discovery** shall be completed by January 10, 2020 (which date shall be no later than **115 days** before the first day of the month of the presumptive trial month or the first day of the month of the trial setting). Any written interrogatories or request for production served after the date of the Scheduling and Discovery Order shall be served by a date that allows the served parties the full **30 days** as provided by the Federal Rules of Civil Procedure in which to answer or produce by the discovery cut-off date.
13. All **dispositive motions** shall be filed by February 21, 2020 (which date shall be no later than **100 days** before the first day of the month of the presumptive trial month or the first day of the month of the trial setting). Dispositive motions filed after this date will not be considered by the Court.
14. The parties are reminded that, prior to filing any motions concerning discovery, they must first meet and confer relating to any discovery disputes and then contact the Court to arrange a telephone discovery dispute conference if they are unable to

resolve their dispute. If the dispute cannot then be resolved in the first telephonic conference, the Court will establish, with the input of the parties, the mechanism for submitting written positions to the Court on an expedited basis.

DATED: October 15, 2018

s/ William E. Coonan
WILLIAM E. COONAN

Attorney for Plaintiff

s/ Stephen M. Komie
STEPHEN M. KOMIE

Attorney for Claimants

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

UNITED STATES OF AMERICA,
Plaintiff,

vs

\$510,910.00 IN UNITED STATES
CURRENCY,
Defendant.

CIVIL NO. 18-1683-NJR-SCW

CJRA TRACK: A

**PRESUMPTIVE TRIAL MONTH:
JUNE 2019**

JUDGE: NANCY J. ROSENSTENGEL

SCHEDULING AND DISCOVERY ORDER

Depositions upon oral examination, interrogatories, request for documents, and answers and responses thereto shall not be filed unless on Order of the Court. Disclosures or discovery under Rule 26(a) of the Federal Rules of Civil Procedure are to be filed with the Court only to the extent required by the final pretrial order, other order of the Court, or if a dispute arises over the disclosure or discovery.

Having reviewed the Report of the Parties and finding that the parties have complied with the requirements of Federal Rule of Civil Procedure 26(f) and SDIL-LR 16.2(a), the Court hereby approves and enters the Proposed Scheduling and Discovery Order as submitted by the parties/as modified at the Pretrial Scheduling and Discovery Conference.

A. A settlement conference is set before STEPHEN C. WILLIAMS in accordance with SDIL-LR 16.3(b) on [Click here to enter a date](#) at [Click here to enter text](#) in East Saint Louis.

B. A final pretrial conference is set for _____, 2019 at _____ AM in East Saint Louis before the trial judge in accordance with SDIL-LR 16.2(b).

As initially set by the Court, the presumptive trial month is _____.

IT IS SO ORDERED.

DATED: October 19, 2018

STEPHEN C. WILLIAMS

United States Magistrate Judge

IN THE
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FOR THE SOUTHERN DISTRICT OF ILLINOIS
EAST ST. LOUIS DIVISION

UNITED STATES OF AMERICA,)	
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Plaintiff,)	
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PATRICK N. BARBER and STEPHEN M. KOMIE)	
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Claimants.)	

CERTIFICATE OF SERVICE

The undersigned, an attorney, deposes and states that a true and correct copy of **Joint Motion for Reclassification of Case Track** has been served upon the below named party(ies), by filing said document in the CM/ECF system on October 15, 2018.

TO: William Coonan Assistant United States Attorney Nine Executive Drive Fairview Heights, Illinois 62208	Clerk of the U.S. District Court for the Southern District of Illinois 750 East Missouri Avenue East St. Louis, Illinois 62201
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/s/Stephen M. Komie
Stephen M. Komie
Komie and Associates
One N. LaSalle Street, Suite 4200
Chicago, Illinois 60602
312/263-2800